

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 05-44481-RDD (Jointly Administered)

-----x

In the Matter of:

DPH HOLDINGS CORP., et al.,

Reorganized Debtors.

-----x

United States Bankruptcy Court
300 Quarropas Street
White Plains, New York

December 17, 2010

2:33 PM

B E F O R E:

HON. ROBERT D. DRAIN
U.S. BANKRUPTCY JUDGE

VERITEXT REPORTING COMPANY

212-267-6868

516-608-2400

2

1

2 HEARING re Telephone Status Conference filed by Eric Fisher on
3 Behalf of DPH Holdings Corp., et al.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24 Transcribed by: Pnina Eilberg

25

VERITEXT REPORTING COMPANY

212-267-6868

516-608-2400

1 cases but we filed, you know, a response, then they filed an
2 amended complaint. We filed a response to that.

3 So, I mean, I would like some finality, I think, on
4 that issue as well.

5 THE COURT: Okay.

6 MR. WINSTEN: This is Bill Winsten. And Judge, not
7 surprisingly I'm in the same boat as well. In fact, one of the
8 reasons we moved on this issue or opposed the motion for leave
9 on this basis as well is we've been asking for information from
10 the debtor for several months now, haven't gotten it. And we
11 believe, as to one of our clients, the contracts have been
12 assumed and we just can't get anywhere with them.

13 THE COURT: Well, this -- let me deal with the
14 contract issue first and then clarify whether there are any
15 other issues in connection with points 6 through 8.

16 I want anyone who is opposing a motion to amend, on
17 the basis that they have a contract that was assumed and they
18 believe that the transfer relates to that contract, to so
19 inform counsel for the plaintiff by the end of next week,
20 identifying the contract they believe has been assumed. And
21 after the -- after the Christmas holiday the debtors really
22 need to get back promptly on that.

23 I don't want to be -- I don't want to have the parties
24 spending any time litigating an issue that can be resolved
25 based on the debtors own representations that they're not going

1 to pursue a preference claim relating to an assigned or assumed
2 contract. So you can resend the letter that you previously
3 sent, I just want them all sent by the end of next week.

4 MR. FISHER: Your Honor, this is Eric Fisher --

5 THE COURT: I mean, that's without prejudice to your
6 arguments for the motion to dismiss. I just don't think we
7 should be wasting our time at a hearing on something like this
8 if the contracts have been identified. Unless, after making,
9 you know, reasonable inquiry the debtors haven't, you know,
10 disagree with that.

11 MR. FISHER: Your Honor, we, of course, agree with
12 that. I think that there's no dispute about what the law is in
13 this regard and there have been instances, of course, where
14 defendants brought to our attention, were able to show that
15 payments were made pursuant to assumed contract and we have
16 dismissed either specific claims or in certain instances entire
17 actions on that basis.

18 So we will continue to do so in dialogue with
19 defendants who raise that issue with us.

20 THE COURT: Okay. I don't want to shift any burden.
21 I just want the defendants who have this issue to raise the
22 point, identifying the contract that they believe was assumed
23 and for the debtors to do the inquiry on their records. In
24 essence, this is to give the debtors another chance to amend
25 their complaint because it may well be that if their complaint

1 series of potentially very serious issues about that problem.
2 And rather than getting the parties into case-by-case discovery
3 on notice related to the 4M issues and/or discovery generally,
4 I think we ought to deal with the complaint first, just the
5 face of the complaint first.

6 MR. WINSTEN: That was my sense of what you were
7 saying. I just wanted to make explicit what was implicit.

8 THE COURT: Yeah. So, I mean, it may be that we still
9 have, you know, a hundred or so defendants but it's also
10 possible we'll only have twenty or fifteen or thirty. So I
11 think rather than deal with that now, we should focus on that
12 for the 17th, depending on how I rule.

13 Okay. All right. Hearing nobody else, I thank you
14 all for focusing on this. I appreciate that it is -- it's an
15 unusual and frustrating situation for the defendants but I
16 believe that this is probably the most efficient way to deal
17 with it, particularly after the hearing this summer. So we'll
18 go down this path for February 17th.

19 Thank you.

20 MR. FISHER: Okay. Thank you, Your Honor.

21 (Whereupon these proceedings were concluded at 3:38 PM)

22

23

24

25